IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 731 OF 2005

WITH

CIVIL APPLICATION NO. 1883 OF 2005

S. N. Gouda & Anr. ..Appellants

versus

The Municipal Corporation of

Greater Mumbai ..Respondents

Mr. M. N. Dhamal for the Appellants.

Mr. J. Xavier for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 8TH JUNE, 2005

P.C. :

1. Heard.

2. This appeal is filed against dismissal of the suit of the appellants - plaintiffs which they have filed against 351 Notice. It was in respect of 8′ x 10′ place where the plaintiffs were doing business of selling tea by keeping table in byelane. They had no documentary evidence to prove the legality of the business or the so-called structure referred to in 351 notice. After considering the circumstances and the evidence and the admission given by the appellants = plaintiffs referred to in the judgment in paragraph 8, the suit was rightly dismissed. There is no merit in this case, the

appeal is required to be dismissed along with the Civil Application and accordingly it is dismissed with costs along with Civil Application.

3. Counsel for the appellants state that the appellants have applied to the BMC on 5.3.1999 for giving them some place to carry on business and municipal licence. If such application is made, the BMC to decide that application within 12 weeks from today. This direction is given only on humanitarian ground, it does not give the plaintiffs any legal right to challenge the decision of the BMC. Certified copy expedited.

8.06.2005 (D.G. DESHPANDE, J.)